

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES,

Plaintiff,

v.

Case No. 14-20106

LORRIS UPSHAW III,

Defendant.

**ORDER DENYING DEFENDANT'S MOTION FOR
REDUCTION OF SENTENCE**

Pending before the court is Defendant Lorris Upshaw's Motion for Reduction of Sentence. (Dkt. # 20.) The government has submitted a Response. (Dkt. # 23.) Having reviewed the briefs, the court concludes that there is no basis to reduce Defendant's sentence and denies the Motion.

On June 5, 2014, Defendant pleaded guilty to bribery concerning programs receiving federal funds, in violation of 18 U.S.C. § 666(a). The court sentenced Defendant to 22 months' imprisonment. He now seeks a sentence reduction based on his completion of two financial classes while incarcerated.

While Defendant cites no authority under which he moves the court to lower his sentence, a court may reduce a sentence 1) to correct an error, Fed. R. Crim. P. 35(a); 2) for substantial assistance after sentencing in investigating or prosecuting another person, Fed. R. Crim. P. 35(b); 3) upon the motion of the Director of the Bureau of Prisons in limited circumstances, 18 U.S.C. § 3582(c)(1)(A); or 4) where the sentencing range specified by the guidelines has been lowered by the Sentencing Commission and

a reduction “is consistent with applicable policy statements issued by the Sentencing Commission,” 18 U.S.C. § 3582(c)(2). The completion of financial courses in prison does not satisfy any of these avenues to a reduction. Additionally, while the Sentencing Commission did lower the sentencing range applicable to Defendant, a reduction would not be “consistent with applicable policy statements issued by the Sentencing Commission” because the Commission has not included the relevant amendment among those that it has chosen to apply retroactively. See U.S.S.G. Supp. to App. C., Am. 791; U.S.S.G. §§ 1B1.10(a)(1) and (d). The reduction, therefore, does not apply retroactively. *United States v. Swan*, No. 1:12-cr-00027-JAW-02, 2016 WL 471296, *1-2 (D. Me. Feb. 8, 2016).

Accordingly, IT IS ORDERED that Defendant’s Motion for the Reduction of Sentence (Dkt. #20) is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: April 14, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, April 14, 2016, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522